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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,121	08/01/2000	Hao A. Chen	3620-023-01	8367

7590

07/08/2002

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 07/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/630,121

Applicant(s)

CHEN ET AL.

Examiner

William P. Watkins III

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1772

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 April 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-21 and 31-53 is/are pending in the application.
- 4a) Of the above claim(s) 34-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-21, 31-33 and 37-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                             | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2,4,6</u> . | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

1. Applicant's election with traverse of Group III, claims 31-33 in Paper No. 07, filed 18 April 2002 is acknowledged. The traversal is on the ground(s) that the groups overlap and that the methods are not independent. This is not found persuasive because a print layer and printing on top of the core are mutually exclusive species. One could not print on the top of the core and then cover it with a separate print layer, while still keeping the printing on the core surface fully visible. Articles and their method of making are related, but restrictable, if an alternate method is available and there is a burden such as different classification. Both conditions have been met.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-21, 31-33, 37-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. 6,324,809 B1) in view of Spain et al. (U.S. 5,662,977) further in view of Andres (U.S. 5,553,427).

Nelson teaches planks, which can be used to make up a floating floor: which can consist of a core layer, which may be PVC; and a decorative overlay, which may be a high pressure laminate (col. 2, line 50 through col. 3, line 45, col. 2, lines 1-5). The examiner notes that many options for the top and bottom layers of the core are taught, but that the core being exposed as the bottom surface, with a decorative laminate as the top surface, is a possible taught option (col. 2, lines 50-61). Spain et al. teaches a transfer printed color layer with a protective coating used to decorate a PVC layer (abstract, Figure 6). Andres teaches the use of hollow cavities in a PVC floor plank as well as the use of feet to raise the plank off the floor (Figure 7). The instant invention claims the use of a print layer on the core of a PVC plank in a floating floor with the use of hollow cavities and feet on the planks. It would have been obvious to one of ordinary skill in the art to use a transfer print layer on the plank of Nelson et al. instead of a

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printed overlay in order to save the expense of construction of the overlay because Spain et al. teaches use of a transfer printing to directly decorate a core layer. It further would have been obvious to use cavities and feet in the planks of Nelson in view of Spain et al. in order to lower the weight and amount of material used in the core and to raise the planks off of the subfloor for the purposes of insulation because of the teachings of Andres. Nelson appears both explicitly and implicitly to teach rectangular planks with no type of cupping. The examiner therefore takes the planks of Nelson as modified above to be equivalent to the heat treated planks of the instant claims.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 703-308-2420. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

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WW/ww

July 1, 2002

A handwritten signature in cursive script, appearing to read "William P. Watkins III".

WILLIAM P. WATKINS III  
PRIMARY EXAMINER